

March 27, 2003

ENERGY & ENVIRONMENT  
COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT. CHAIRMAN SWANICK PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items were received and filed.

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|----|---|------|-------|---------------|
|    | Item  | Page | -2002 | (Comm. 13E-3) |
| a. | <b>PEOPLES:</b> Written Materials Submitted at Public Meeting in Rel to Local Law Int No. 5.<br>(6-0) Chairman Swanick present as Ex-Officio Member.  |      |       |               |
|    | Item  | Page | -2002 | (Comm. 13M-3) |
| b. | <b>NY COALITION FOR ALTS TO PESTICIDES:</b> Testimony of Pamela Hadad Hurst to<br>Erie County Legislature 6/11/02.<br>(6-0) Chairman Swanick present as Ex-Officio Member.  |      |       |               |
|    | Item  | Page | -2002 | (Comm. 13M-6) |
| c. | <b>KIRSTEN SHELLY:</b> Letter to Legislature Re: Pesticide Notification.<br>(6-0) Chairman Swanick present as Ex-Officio Member.  |      |       |               |
|    | Item  | Page | -2003 | (Comm. 17D-6) |
| d. | <b>COUNTY ATTORNEY:</b> Letter to Legislator Peoples Re: Pesticide Notification.<br>(6-0) Chairman Swanick present as Ex-Officio Member.  |      |       |               |
|    | Item  | Page | -2003 | (Comm. 24M-6) |
| e. | <b>NYPIRG:</b> Copy of Letter to Legislator Holt Re: Pesticide Neighbor Notification.<br>(6-0) Chairman Swanick present as Ex-Officio Member.   |      |       |               |
|    | Item  | Page | -2003 | (Comm. 5M-3)  |
| f. | <b>ERIE-NIAGARA TOBACCO-FREE COALITION:</b> Copy of Letter to Chairman Swanick<br>Re: Clean Indoor Air Law.<br>(6-0) Chairman Swanick present as Ex-Officio Member.   |      |       |               |
|    | Item  | Page | -2003 | (Comm. 6D-3)  |
| g. | <b>DEP:</b> SEQR – Solicitation for Lead Agency Status – Type I Action – Bethlehem Park<br>Rehab\Replacement.<br>(6-0) Chairman Swanick present as Ex-Officio Member.   |      |       |               |
|    | Item  | Page | -2003 | (Comm. 6E-2)  |
| h. | <b>SWANICK:</b> Copy of Letter to Chairman of Energy & Environment Committee Re: Request<br>of Acea Mosey-Pawłowski for Reappointment to ECWA.<br>(6-0) Chairman Swanick present as Ex-Officio Member.              |      |       |               |
|    | Item  | Page | -2003 | (Comm. 6E-3)  |
| i. | <b>LARSON:</b> Copy of Letter to Acea Mosey-Pawłowski Re: Meeting of Energy &<br>Environment Committee to Interview as Candidate for Reappointment to ECWA.<br>(6-0) Chairman Swanick present as Ex-Officio Member. |      |       |               |

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|  | Item | Page | -2003 | (Comm. 6M-9) |
|--|------|------|-------|--------------|
- j. **ACEA MOSEY-PAWLOWSKI TREASURER ECWA:** Requesting Consideration for Reappointment to Board for Commissioners of ECWA.  
(6-0) Chairman Swanick present as Ex-Officio Member.
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|--|------|------|-------|---------------|
|  | Item | Page | -2003 | (Intro. 6-14) |
|--|------|------|-------|---------------|
- k. **MINORITY CAUCUS:** Supporting Legislation to Require All Gas & Electric Corporations to Respond to Customer Calls Involving Safety & Reliability Issues.  
(6-0) Chairman Swanick present as Ex-Officio Member.

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|----|------|------|-------|-------------------|
|    |      |      |       | <b>AS AMENDED</b> |
| 2. | Item | Page | -2002 | (Comm. 14E-27)    |
- COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management solicited proposals for replacement of the Oxygen Generation System at the Erie County Southtowns Advanced Wastewater Treatment Facility, through an Energy Performance Contract process, in accordance with New York State Energy Law Article 9 and the procedures outlined by the New York State Energy Research and Development Authority (NYSERDA); and

WHEREAS, Praxair, Inc. (Praxair), 175 East Park Drive, Tonawanda, New York 14151, has provided an acceptable proposal and has agreed to a negotiated fee in an amount not-to-exceed \$1,050,000; and

WHEREAS, Praxair has secured NYSERDA grant funding under Program Opportunity Notice 624-01, on behalf of the Erie County Southtowns Sewage Treatment Agency, and has reduced their contract proposal offer by the amount of the anticipated award (\$100,000); and

WHEREAS, Praxair will assume all risk and responsibility associated with securing and collecting the grant award and agrees that the not-to-exceed contract amount shall be full compensation for all labor, materials, supplies and services in connection with the Agreement regardless of Praxair's success in securing and collecting the grant monies; and

WHEREAS, the aforementioned bidder has been recognized as successfully performing similar work.

NOW, THEREFORE, BE IT

RESOLVED, that the Southtowns Advanced Wastewater Treatment Facility, Oxygen Generation System Replacement Contract, be awarded to Praxair, Inc., 175 East Park Drive, Tonawanda, New York 14151 in an amount not-to-exceed \$1,050,000; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contract with the aforementioned corporation subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment & Planning; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$1,050,000 in funds from Sewer District Capital Account 430-915 for the payment of obligations under this Agreement; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy each to Nancy Naples, Erie County Comptroller, John S. Rizzo, Deputy Comptroller and Gregory Dudek, Assistant County Attorney.  
(6-0) Chairman Swanick present as Ex-Officio Member.

3.       Item                   Page                                   -2003                   (Comm.6E-8)

**COUNTY EXECUTIVE**

WHEREAS, County of Erie/Erie County Sewer District No. 3 herein called the "Borrower" after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the Project generally described as the Village of Blasdel Connection to the Southtowns Wastewater Treatment Facilities and Rush Creek Interceptor and identified as CWSRF Project No. 6649-07, herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987, (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to Chapter 565 of the Laws of New York 1989 as amended, (the CWSRF Act), established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, (the "Act") being Chapter 744 of the Laws of 1970, as amended and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for planning, development and construction of eligible projects;

NOW, THEREFORE, BE IT RESOLVED BY ERIE COUNTY LEGISLATURE as follows:

1. The filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application.
2. The following person(s) is/are directed and authorized as the official representative(s) of the Municipal Applicant to execute and deliver an application or CWSRF assistance, to execute and deliver the Project Financing Agreement and any other documents necessary to receive financial assistance from the Fund for the Project described, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Municipal Applicant as may be required:

The COUNTY EXECUTIVE  
(Authorized Representative)

The ERIE COUNTY COMPTROLLER  
(Chief Fiscal Officer)

3. The official(s) designated above is/are authorized to make application for financial assistance under the following CWSRF Program for either short-term or long-term financing or both.
4. That the Clerk of the Legislature be directed to send three (3) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning and one certified copy to the Erie County Comptroller's Office, Director of Budget and Management and to Gregory J. Dudek, Assistant County Attorney.
5. This Resolution shall take effect immediately.

(6-0) Chairman Swanick present as Ex-Officio Member.

4. Item Page -2003 (Comm. 6E-29)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment & Planning, Division of Sewerage Management has identified the need to retain an Engineer to complete detailed engineering and economic evaluations for studying long-term sewer service options for the Village of East Aurora; and

WHEREAS, the Erie County Department of Environment & Planning, Division of Sewerage Management has recommended the firm of URS Corporation, 282 Delaware Avenue, Buffalo, New York 14202; and

WHEREAS, the ECSSTA has agreed to fund the study if the results of the detailed evaluation indicate that a merge of sewer services between the Village and the County is the most economically feasible option; and

WHEREAS, the County agrees to pay for the study if the study results do not indicate that a merge of sewer services between the County and the Village is an economically feasible option.

NOW, THEREFORE, BE IT

RESOLVED, that the engineering firm of URS Corporation, be retained at a cost not-to-exceed \$48,449.69; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with the firm of URS Corporation, 282 Delaware Avenue, Buffalo, New York 14202, to provide the needed services, subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment & Planning; and be it further

RESOLVED that the Director of Budget, Management and Finance be directed to allocate funds accordingly, as follows:

ECSD No. 3/Southtowns 220 853 831 698 105 \$48,449.69 use of Fund Balance and 220 853 830 830 Contractual Services;

and be it further,

RESOLVED that ECSD No. 3/Southtowns shall be reimbursed from the County's General Fund, from an account to be determined by the Director of Budget, Management & Finance, in an amount equal to \$48,449.69 plus any adjustments to the cost made by change order or modification, should the study results not indicate that a merge of sewer services between the County and the Village of East Aurora is an economically feasible option; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, one copy to Nancy Naples, County Comptroller, one copy to Joseph Passafiume, Director of Budget, Management and Finance, and one copy to Gregory Dudek, Assistant County Attorney. (6-0) Chairman Swanick present as Ex-Officio Member.

5.      Item                      Page                      -2003                      (Comm. 6E-30)  
**COUNTY EXECUTIVE**

WHEREAS, the Buffalo Sewer Authority (BSA) has requested Erie County Sewer District No. 6 (ECSD NO. 6) provide sanitary sewer service to the Union Ship Canal properties; and

WHEREAS, it is cost effective for both the BSA and ECSD No. 6 to provide sanitary sewer service to the Union Ship Canal properties by connection to ECSD No. 6's sewerage system; and

WHEREAS, by providing sanitary sewer service to the Union Ship Canal properties there will be significant cost savings to both BSA and ECSD No. 6.

NOW, THEREFORE, BE IT

RESOLVED, that an agreement between the County, on behalf of Erie County Sewer District No. 6, and Buffalo Sewer Authority for the purpose of providing sanitary sewer service to the Union Ship Canal properties is approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the agreement subject to approval as to form by the County Attorney, and content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, and one (1) certified copy each to Nancy Naples, Erie County Comptroller; Gregory Dudek, Assistant County Attorney; Joseph Passafiume, Director of Budget and Management; Peter Cammarata, ECIDA; and Anthony Hazen, Chairman, Buffalo Sewer Authority.  
(6-0) Chairman Swanick present as Ex-Officio Member.

6.      Item                      Page                      -2003                      (Comm. 6E-31)

**COUNTY EXECUTIVE**

WHEREAS, County of Erie/Erie County Sewer District No. 2 herein called the "Borrower" after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the Project generally described as the Big Sister Creek Wastewater Treatment Plant Disinfection System identified as CWSRF Project No. 6646-12, herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987, (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to Chapter 565 of the Laws of New York 1989 as amended, (the CWSRF Act), established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, (the "Act") being Chapter 744 of the Laws of 1970, as amended and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for planning, development and construction of eligible projects;

NOW, THEREFORE, BE IT RESOLVED BY ERIE COUNTY LEGISLATURE as follows:

1. The filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application.
2. The following person(s) is/are directed and authorized as the official representative(s) of the Municipal Applicant to execute and deliver an application or CWSRF assistance, to execute and deliver the Project Financing Agreement and any other documents necessary to receive financial assistance from the Fund for the Project described, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Municipal Applicant as may be required:

The COUNTY EXECUTIVE  
(Authorized Representative)

The ERIE COUNTY COMPTROLLER  
(Chief Fiscal Officer)

3. The official(s) designated above is/are authorized to make application for financial assistance under the following CWSRF Program for either short-term or long-term financing or both.
4. That the Clerk of the Legislature be directed to send three (3) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning and one certified copy to the Erie County Comptroller's Office, Director of Budget and Management and to Gregory J. Dudek, Assistant County Attorney.
5. This Resolution shall take effect immediately.

(6-0) Chairman Swanick present as Ex-Officio Member.

7. Item Page -2003 (Comm. 6E-32)  
**COUNTY EXECUTIVE**

WHEREAS, the County of Erie has secured the services of URS Consultants, Inc. to design a waste paper pulp facility and related engineering services for the Southtowns Sewerage Treatment Agency.

WHEREAS, the Erie County Division of Sewerage Management recommended the formal close-out of the A/E Agreement dated November 1, 1995 with URS Consultants, Inc. in the amount of \$479,136.56.

NOW, THEREFORE, BE IT

RESOLVED, that the A/E Agreement dated November 1, 1995 between the County of Erie/Erie County Southtowns Sewage Treatment Agency and URS Consultants, Inc. be formally closed-out in the final contract amount of \$479,136.56; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to close-out the contract encumbrances in Sewer Capital Bond Account 430, Project 514 relating to the A/E Agreement dated November 1, 1995, between the County of Erie/Erie County Southtowns Sewage Treatment Agency and URS Consultants, Inc. and cancel any remaining balance; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one copy each to Nancy Naples, Erie County Comptroller and Assistant County Attorney Gregory Dudek. (6-0) Chairman Swanick present as Ex-Officio Member.

8. Item Page -2003 (Comm. 6E-33)

**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning and the Buffalo Sewer Authority have been exploring the potential to merge certain wastewater services; and

WHEREAS, the Erie County Department of Environment and Planning and the Buffalo Sewer Authority recommend the phased merger of industrial pretreatment programs; and

WHEREAS, the recommended first phase of the industrial pretreatment merger is for the Buffalo Sewer Authority to provide industrial pretreatment sampling services to the Erie County Sewer Districts and the Southtowns Sewage Treatment Agency; and

WHEREAS, the Department of Environment and Planning has advised the County Legislature that there are benefits and cost savings to merging the County's industrial pretreatment program with the Buffalo Sewer Authority; and

WHEREAS, the Sewer Districts have adequate fund balance to fund the project.

NOW, THEREFORE, BE IT

RESOLVED, that an agreement with the Buffalo Sewer Authority for the Phase 1 (sampling services by the Buffalo Sewer Authority) implementation of the merger of industrial pretreatment programs is hereby approved; and be it further

RESOLVED, that the cost for the Phase 1 implementation will be paid from Sewer Districts operating fund balances, not to exceed a total of \$32,750.00; and be it further

RESOLVED, that the Director of Budget, Management and Finance be directed to allocate the funds from the Sewer Districts Fund Balances as follows:



ECSD No. 5

Use of Fund Balance, 220 851 810 698 105 - \$ 2,424

Contractual Services, 220 851 810 830

ECSD No. 2

Use of Fund Balance, 220 852 820 698 105 - \$ 8,679

Contractual Services 220 852 820 830

ECSD No. 3/Southtowns

Use of Fund Balance, 220 853 830 698 105 - \$15,392

Contractual Services 220 853 830 830

ECSD No. 6

Use of Fund Balance 220 854 840 698 105 - \$ 6,255

Contractual Services 220 854 840 830

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning; one copy to Nancy Naples, Erie County Comptroller; Gregory Dudek, Assistant County Attorney and Joseph Passafiume, Director Budget and Management.  
(6-0) Chairman Swanick present as Ex-Officio Member.

**DALE W. LARSON**  
**CHAIRMAN**